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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ABHINAV BHATNAGAR,
Plaintiff,
vs.
JASON INGRASSIA, individually and in
his official capacity; COUNTY OF
CONTRA COSTA; and CITY OF
SAN RAMON.
Defendants.
Case No.: 3:07-cv-02889 (CLB)(EDB)
PLAINTIFF'S OPPOSITION TO
MOTION TO STRIKE REPLY BRIEF
Date: August 26, 2008
Time: 9:30 a.m.
Honorable Elizabeth D. Laporte

ARGUMENT

Plaintiff hereby opposes Defendant Ingrassia's Motion to Strike Plaintiff's Untimely Reply Brief, filed on August 18, 2008. Plaintiff's Reply Brief was filed on August 15, 2008 at 6:23 pm. At the time of filing, Plaintiff's counsel inadvertently and regrettably overlooked the court's order dated August 4, 2008, which imposed a time restriction requiring that the reply brief be filed by noon on August 15, 2008. (Declaration of Jenny Huang, dated August 18, 2008 ("Huang Decl.") at ¶ 2.) The untimely filing of Plaintiff's Reply Brief was unintentional and

1 Plaintiff's counsel has assured that she will closely observe all time restrictions imposed on any
2 future filings. (Huang Decl. at ¶ 3-4.)

3 Counsel for Defendant Ingrassia has not been prejudiced by the untimely filing of
4 Plaintiff's Reply Brief. The reply brief was filed more than ten days in advance of the hearing
5 scheduled on August 26, 2008 for the present motion. Contrary to the assertions of Mr.
6 Fitzgerald, all evidence submitted in support of Plaintiff's Reply Brief was in rebuttal to
7 Defendant Ingrassia's Opposition Brief. Specifically, Exhibits D (Letter from Diana Garrido)
8 and E (Affidavit of Mr. Bhatnagar) were submitted in response to allegations that Plaintiff
9 claimed he did not believe Defendant Ingrassia was responsible for making the harassing phone
10 calls. (Opposition Brief at 19:7-10; Fitzgerald Decl. at Exh. C.) Similarly, Exhibits F and G (e-
11 mail correspondence from Jenny Huang) were submitted in response to Mr. Fitzgerald's repeated
12 suggestions to the court that he has cooperated with Plaintiff's efforts to schedule the deposition
13 of Defendant Ingrassia. Because the evidence in support of Plaintiff's reply brief did not include
14 any newly submitted evidence, Defendant Ingrassia is not entitled to an opportunity to oppose or
15 respond to Plaintiff's Reply Brief in writing. (Huang Decl. at ¶ 5.)

16 **CONCLUSION**

17 For the reasons stated above, Plaintiff respectfully requests that this court deny in its
18 entirety Defendant Ingrassia's Motion to Strike Plaintiff's Reply Brief.

19
20 Date: August 18, 2008
21 Oakland, California

22 **JUSTICE FIRST, LLP**
23 Attorneys for Plaintiff Abhinav Bhatnagar
24 By:
25 _____/s/ Jenny Huang_____

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